

## Message Text

SECRET

PAGE 01 STATE 215002

60

ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 DLOS-06 EB-07 SAL-01 IO-13 FEA-01

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EPA-01 ERDA-05 FMC-01

TRSE-00 H-02 INR-07 INT-05 JUSE-00 NSAE-00 NSC-05

NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

NSCE-00 SSO-00 INRE-00 /121 R

DRAFTED BY L:MDSANDLER:LR

APPROVED BY L:MBFELDMAN

L/OES:RJBETTAUER

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FM SECSTATE WASHDC

TO AMEMBASSY MADRID IMMEDIATE

S E C R E T STATE 215002

FOR LEIGH FROM FELDMAN

E.O. 11652: GDS

TAGS:PLOS, SP

SUBJECT:INFORMATION FOR ILA MEETINGS

REF: MADRID 6615

1. TERRORISM: CONGRESS HAS MADE LITTLE PROGRESS ON  
LEGISLATION TO IMPLEMENT CONVENTION ON PREVENTION AND  
PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED  
PERSONS (TERRORISM AGAINST DIPLOMATS CONVENTION). ON HOUSE  
SIDE, STATE AND JUSTICE TESTIFIED ON JUNE 30. JUSTICE  
HAS HEARD RUMOR THAT MARK-UP WILL OCCUR SOON, BUT NO

SECRET

SECRET

PAGE 02 STATE 215002

CONFIRMATION YET. ON SENATE SIDE, THERE HAS BEEN NO ACTION

SINCE BILL WAS INTRODUCED ON JULY 1.

2. SOVEREIGN IMMUNITY: WE HAVE HEARD FLOWERS SUBCOMMITTEE IS PLANNING MARK-UP THIS WEEK, BUT SHATTUCK HAS NOT YET RETURNED SANDLER'S CALLS TO CONFIRM. SENATE JUDICIARY MUST STILL PERFORM MINISTERIAL TASK OF PRINTING ITS REPORT. SANDLER IS PRESSING THIS. SANDLER ALSO SPOKE TO DICK ALLISON TO HAVE HIM PRESS ABA HEADQUARTERS TO SEND ASAP LETTERS TO FLOWERS, RODINO AND EASTLAND, REPORTING ABA RESOLUTION.

3. STATUS OF LOS CONFERENCE: THE NEGOTIATIONS IN COMMITTEE I HAVE BEEN GOING BADLY AND THERE IS SOME FEAR THAT THIS

SESSION--IF NOT THE WHOLE EFFORT TO ACHIEVE AN LOS CONVENTION--MAY FALL APART AS A RESULT. THE WORK IN COMMITTEES II, III, AND ON DISPUTE SETTLEMENT, IS MOVING ALONG, BUT SOME OF THE KEY ISSUES IN THESE AREAS ARE STILL NOT SOLVED. THE NEW YORK TIMES AND THE WASHINGTON POST HAVE REPORTED THAT THE CONFERENCE IS AT AN IMPASSE.

4. IN COMMITTEE I, THE REVISED SINGLE NEGOTIATING TEXT (RSNT) ON DEEP SEABEDS ISSUES HAD POSED MAJOR PROBLEMS FOR US, BUT WAS NEVERTHELESS A GOOD NEGOTIATING BASE. G-77, LED BY LDC EXTREMISTS, HAS HAD COMMITTEE I CHAIRMAN DEPOSED AND CHALLENGED MAJOR PARTS OF RSNT--INCLUDING ACCESS OF PRIVATE INVESTORS TO SEABED SITES. COMMITTEE I NEGOTIATING "WORKSHOP" HAS RESULTED IN POSITIONS BEING CLARIFIED, BUT NOTHING MORE. ALDRICH IS DOUBTFUL ACCEPTABLE AGREEMENT ON DEEP SEABEDS CAN BE NEGOTIATED.

5. IN COMMITTEE II, POSITIONS ARE STILL DEADLOCKED ON ISSUE OF "HIGH SEAS" STATUS OF ECONOMIC ZONE. CONSTRUCTIVE DEBATE IS BEING HELD ON RESOURCE RIGHTS IN CONTINENTAL SHELVES THAT EXTEND BEYOND 200 MILES. DEPENDENT TERRITORIES ISSUE HAS NOT COME UP YET.

6. IN COMMITTEE III, U.S. DELEGATION RECOMMENDED WE STOP OPPOSING COASTAL STATE OVERALL CONSENT REQUIREMENT FOR SCIENTIFIC RESEARCH AND INSTEAD WORK ON CLARIFYING PROCEDURAL SAFEGUARDS AND THE LIMITED CONDITIONS UNDER

SECRET

SECRET

PAGE 03 STATE 215002

WHICH CONSENT CAN BE WITHHELD. ALDRICH IS DEEPLY CONCERNED ABOUT THIS MOVE. US HAS NOT YET SUCCEEDED IN REVISING RSNT TO PERMIT COASTAL STATE TO ESTABLISH, IN TERRITORIAL SEA, VESSEL POLLUTION STANDARDS COMPATIBLE WITH INNOCENT PASSAGE.

7. MANY STATES PARTICIPATING FOR FIRST TIME ON DISPUTE SETTLEMENT ARTICLES. LITTLE PROGRESS SO FAR IN CLARIFYING

POSITIONS. KEY ISSUE AT THIS TIME APPEARS TO BE EXTENT OF JURISDICTION THE TRIBUNAL WILL HAVE OVER EXERCISE OF COASTAL STATE RIGHTS IN THE ECONOMIC ZONE.

8. LANDLOCKED STATES: THE PROVISIONS CONCERNING LAND-LOCKED STATES HAVE NOT CHANGED SIGNIFICANTLY SINCE GENEVA. UNDER ARTICLE 110 OF PART II OF THE RSNT, LANDLOCKED STATES ARE TO "ENJOY FREEDOM OF TRANSIT THROUGH THE TERRITORIES OF TRANSIT STATES BY ALL MEANS OF TRANSPORT." HOWEVER, "THE TERMS AND CONDITIONS FOR EXERCISING FREEDOM OF TRANSIT" ARE TO BE AGREED UPON BETWEEN THE LANDLOCKED STATES AND THE TRANSIT STATES CONCERNED. A TRANSIT STATE MAY NOT LEVY TAXES OR TARIFFS HIGHER THAN THOSE IMPOSED ON DOMESTIC TRANSPORT. SIGNIFICANTLY, TRANSIT STATES UNDER

ARTICLE 110 HAVE AN ESCAPE CLAUSE. THEY WOULD, IN THE EXERCISE OF TERRITORIAL SOVEREIGNTY, "HAVE THE RIGHT TO TAKE ALL MEASURES TO ENSURE THAT THE RIGHTS PROVIDED... FOR LANDLOCKED STATES SHALL IN NO WAY INFRINGE THEIR LEGITIMATE INTERESTS." LANDLOCKED STATES ARE PUSHING FOR (A) MORE GENEROUS TRANSIT RIGHTS, (B) RIGHTS OF ACCESS TO LIVING RESOURCES IN THE ECONOMIC ZONES OF NEIGHBORING COASTAL STATES, AND (C) REVENUE SHARING FROM MINERAL EXPLOITATION IN THE ECONOMIC ZONES.

9. ARTIFICIAL ISLANDS AND OFFSHORE INSTALLATIONS: U.S. HAS NOT PRESSED ANY MAJOR CHANGES ON THIS ISSUE. THE ONLY REVISION WE HAVE PROPOSED IS IN PARAGRAPH 1 OF ARTICLE 48 OF PART II OF THE RSNT WHICH STATES:

"1. IN THE EXCLUSIVE ECONOMIC ZONE, THE COASTAL STATE SHALL HAVE THE EXCLUSIVE RIGHT TO CONSTRUCT AND TO AUTHORIZE AND REGULATE THE CONSTRUCTION, OPERATION AND USE  
SECRET

SECRET

PAGE 04 STATE 215002

OF:

(A) ARTIFICIAL ISLANDS;

(B) INSTALLATIONS AND STRUCTURES FOR THE PURPOSES PROVIDED FOR IN ARTICLE 44 AND OTHER ECONOMIC PURPOSES;

(C) INSTALLATIONS AND STRUCTURES WHICH MAY INTERFERE WITH THE EXERCISE OF THE RIGHTS OF THE COASTAL STATE IN THE ZONE."

WE WISH TO ELIMINATE THE WORD "MAY" IN SUB-PARAGRAPH (C). FYI: THERE ARE SEVEN OTHER PROVISIONS IN ARTICLE 48 IN THE RSNT. THEY GIVE THE COASTAL STATE "EXCLUSIVE JURISDICTION" OVER ARTIFICIAL ISLANDS AND INSTALLATIONS IN THE ECONOMIC

ZONE. THE COASTAL STATE MAY ESTABLISH SAFETY ZONES (NOT MORE THAN 500 METERS) AROUND ARTIFICIAL ISLANDS. "DUE NOTICE" MUST BE GIVEN (PRESUMABLY BY THE COASTAL STATE) BEFORE THE CONSTRUCTION OF ARTIFICIAL ISLANDS OR INSTALLATIONS AND BEFORE THE DESIGNATION OF SAFETY ZONES. SUCH ARTIFICIAL ISLANDS, INSTALLATIONS AND SAFETY ZONES MAY NOT INTERFERE WITH "RECOGNIZED SEA LANES ESSENTIAL TO INTERNATIONAL NAVIGATION." THEY CANNOT HAVE A TERRITORIAL SEA OF THEIR OWN, NOR MAY THEY AFFECT THE DELIMITATION OF ANY TERRITORIAL SEA, ECONOMIC ZONE OR CONTINENTAL SHELF. KISSINGER

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